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FISCAL IMPACT STATEMENT

LS 7048

BILL NUMBER: HB 1249

NOTE PREPARED: Jan 5, 2012

BILL AMENDED:

SUBJECT: Land Banks.

FIRST AUTHOR: Rep. Clere

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

It allows a county, city other than a consolidated city, or town unit to operate a land bank.

The bill provides that a unit may adopt an ordinance designating an official, a department, or an instrumentality of the unit as the manager of land bank operations for the unit.

It requires a consolidated city to operate a land bank, and it provides that the manager of land bank operations for a consolidated city is a nonprofit corporation organized by the county executive.

The bill specifies that the territory of a county land bank is all the territory of the county except for the territories of cities and towns in the county. The bill also specifies that the territory of a consolidated city's land bank is all the territory of the county in which the consolidated city is located except for the territory of the county's excluded cities.

It provides that:

- (1) abandoned or vacant real property on which delinquent real property taxes are owed; and
- (2) real property on which delinquent real property taxes are owed that has been offered for sale unsuccessfully;

are transferred to the land bank in which the real property is located, if any.

The bill requires the fiscal body of a county, city, or town that operates a land bank to appropriate to the land bank revenue from property taxes collected on real property disposed of by the land bank for three years

following the year in which the land bank disposes of the real property, in the case of a consolidated city or a county, city, or town if the fiscal body of the county, city, or town has made an election to do so.

The bill requires a consolidated city to appropriate money in the consolidated city's unsafe building fund that is not needed for executing the unsafe building law to the consolidated city's land bank.

It repeals the definition of "substantial property interest of public record" to relocate the definition to a new chapter, and it makes a technical correction.

Effective Date: July 1, 2012.

Explanation of State Expenditures: *State Board of Accounts:* The bill will have minimal fiscal impact on the State Board of Accounts, which would audit the land bank of a consolidated city annually.

Department of Local Government Finance (DLGF): In addition to its current notification requirements, the DLGF will notify the land bank in whose territory a property is located, in certain situations. The costs associated with the additional notification are expected to be within the current resources available to the DLGF.

Explanation of State Revenues: Properties held by a land bank are exempt from ad valorem property tax and special assessments by the state.

Explanation of Local Expenditures: Certain costs may increase for the county auditor concerning reports and notices. The costs will depend on the number of properties for which notice is required.

Explanation of Local Revenues: *Summary:* The bill will have indeterminate fiscal impact on local government based on the decision of units to establish land banks and the efficiency with which the manager operates the land bank. When collected, certain property tax revenue and penalties will transfer from the unit that would receive the funds to the land bank. However, to the extent that these tax revenues would not have been otherwise collected or that the land bank is effective in returning property to collectable status, collected tax revenue overall could increase for the unit.

The results in a consolidated city will depend on whether the change to a nonprofit organization structure is more effective than the existing management through the Metropolitan Development Commission.

Moreover, properties held by a land bank are exempt from property tax and special assessments by the state or a political subdivision. The bill changes the minimum bid price and the redemption price of tax-delinquent property held by a land bank and provides sources of revenue for land banks.

Transfers to Land Banks: The land bank receives a lien equal to the minimum redemption price of the property on the day the property is transferred, and the county auditor issues tax sale certificates to the land bank. Also, if a person fails to file a petition on certain property transactions, the person's lien on the real property is terminated. If the property is located within the territory of a land bank, the land bank is assigned the person's certificate of sale.

Revenue Sources for Land Banks: The bill provides revenues sources for land banks, which will transfer existing sources of revenue from units that establish land banks to the land bank for tax-delinquent abandoned and vacant properties. The following sources of revenue are identified in the bill.

Redeemed and Sold Properties: Currently, a property that is sold at public auction cannot be sold for less than the sum of the delinquent taxes and special assessments, taxes and special assessments for the year of the sale, all penalties, an amount equal to no more than \$25 or postage or publication costs, and any other actual costs incurred by the county, and any unpaid costs from prior tax sales.

Under current law, a property may not be sold at public auction if a person pays redemption costs prior to the sale. The redemption costs include all the delinquent and current taxes and special assessments, penalties on delinquencies, county incurred costs, and unpaid costs from prior tax sales. If a property is sold, the person may redeem the property within six months for 110% of the minimum bid, or after six months for 115% of the bid. Under the bill, the same factors apply to property held by a land bank, and in addition there is an interest rate of 10% per annum on the amount of unpaid tax and special assessment due.

For abandoned or vacant property listed by the auditor or executive, either 5.0% or 7.5% of the minimum redemption price, depending on the time frame of the redemption, will be retained by the land bank and the remainder will transfer to the county treasurer. For property which did not receive a minimum bid and for which a tax lien has been transferred to the land bank, the land bank will retain 5.0% or 7.5% of the minimum bid.

Three Years of Property Tax: Additionally, a unit (not a consolidated city) may elect to allocate and when collected pay to the land bank the property tax on property conveyed to a land bank for the consecutive three-year period after the property is conveyed. In a consolidated city, the distribution of the property tax collected for three years is required. Also, the money in the consolidated city's Unsafe Building Fund not needed for the purpose of the fund is appropriated to the land bank.

If taxes paid on a property are allocated to the land bank, the county auditor would exclude the property's AV from the tax base used to calculate tax rates. The exclusion would ensure that the tax rates are high enough to generate the certified levy from the assessments on the unallocated property. Higher tax rates could cause an increase in property tax payments for all taxpayers. However, if the allocated property would have continued to be nonperforming without the efforts of the land bank, then the county auditor would likely exclude the AV from the tax base anyway. This provision could lead to lower tax rates in the future if the land bank is responsible for putting properties back on the tax rolls.

Borrowing: A land bank or a qualified entity may issue tax anticipation notes. The land bank manager may establish a line of credit with the county treasurer for current unpaid and delinquent taxes on properties held by the land bank.

Tax Sale Surplus Fund: Any amount deposited in the tax sale surplus fund may be transferred to the land bank if it is unclaimed after three years. Currently, the amount is transferred to the county general fund.

Failed Bid Payment Penalty: Under current law, a bidder who fails to pay the bid in a tax sale is subject to a civil penalty of 25% of the bid amount, which is deposited in the county general fund. Under the bill, 50% of the penalty would be deposited in the county general fund and 50% would be distributed to the land bank.

Background & Additional Information -

Land Banks: The bill identifies the purpose of a land bank as:
Reducing the number of abandoned properties.

Promoting economic and housing development and redevelopment.
Increasing collection of delinquent taxes.
Facilitating reclamation, rehabilitation, and reutilization of real property.
Efficiently holding and managing vacant and abandoned real property and property sold for delinquent taxes.
Coordinating the assembling, clearing, and clearing title on properties that are vacant, abandoned, or sold or transferred for delinquent taxes.

A land bank can manage its own properties, or charge a fee to manage property for other owners. The land bank also engages in the development and redevelopment of property. The land bank receives property either by function of law or may participate as a bidder in a tax sale and negotiated for real property owned individually or in multiple property bundles.

In addition to selling the property outright, the land bank may donate property, convert property to rental units or shared-equity home ownership units, and use lease-to-purchase arrangements. Land banks may enter into cooperative agreements with other land banks.

A land bank may refuse to acquire or accept a tract or item of real property. If a land bank and a unit want to acquire the same tract or real property, the unit has superior claim.

Land banks are to report annually to the executive and the fiscal body of the unit. The report includes the activities of the land bank, the number of properties acquired, the use, improvement, and disposition of its properties, and a financial statement. Land banks must comply with the Open Door Law and the Public Records Law.

Land Bank Managers: Outside of a consolidated city, land banks may be established by counties, cities, or towns and the official, department, or instrumentality designed by the unit's fiscal body is to be the manager of the land bank. The manager is to adopt policies to administer its operations and establish procedures and guidelines for acquiring, redeveloping, and disposing of properties. The manager may employ legal counsel, technical experts, and other officers, agents, and employees necessary to efficient operations.

The manager is required to report to the county auditor on March 1 each year the parcel number, address, and the grantee of conveyance of each property sold or conveyed during the preceding calendar year.

Land Bank in Indianapolis: The county executive is to organize a nonprofit corporation to conduct land bank operations in the territory of the consolidated city (outside of the excluded cities). The five-member board of directors consists of three individuals appointed by the mayor, one appointed by the county treasurer, and one appointed by a majority vote of the City-County Council. [The bill is silent as to the compensation of the board of director members.] The board is to meet a minimum of three times a year.

The board may establish an advisory board of the land bank by resolution. The maximum number of advisory board members is to be 20, and at least 51% of the advisory board members must have expertise in community development and not more than 49% may have expertise in real estate development or finance. The board of directors is not required to follow the advice of the advisory board.

Indianapolis currently operates a land bank by the Metropolitan Development Commission. The Indy Land Bank acquires abandoned, tax delinquent and other problem properties, holds and maintains them temporarily, and makes them available to nonprofit or for-profit developers. It also provides a program to

help abutting landowners to purchase adjacent property available for public sale. The Indy Land Bank contracts services to mow, clean, and board properties in its inventory. It performs biannual inspections of its properties and receives complaints from citizens. Property purchased from the Indy Land Bank comes with a clean title free of any encumbrances and is insured by a reputable title insurance company.

Land Bank Fund: The fiscal officer of a unit that establishes a land bank must establish a land bank fund. The land bank manager is to be the administrator of the fund. The fund is comprised of appropriations of the unit's fiscal body, tracts or items of real property acquired, revenue from sales of real property, rental agreements, or contractual agreements, retainage from redemption of property, civil penalties, grants, donations, interest, and money borrowed for land bank operations. The land bank fund does not revert to the unit's general fund and any money that is not needed for operations is invested as the unit's money is invested.

State Agencies Affected: SBOA; DLGF.

Local Agencies Affected: Counties, cities, and towns establishing land banks; City of Indianapolis.

Information Sources: indylandbank.com.

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